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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,073	08/09/2000	Nishanthan M.T. Perinpanathan	91436-262	5647

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SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO, ON M5G2K8
CANADA

EXAMINER

MOORE JR, MICHAEL J.

ART UNIT	PAPER NUMBER
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2666

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DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635,073

Applicant(s)

PERINPANATHAN ET AL.

Examiner

Michael J. Moore, Jr.

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-13, 17-33 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) 37-39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-30 is/are allowed.
- 6) ☒ Claim(s) 6-13 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 6-13, 17-33 and 37-39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

In response to Applicant's confirmation of restriction requirement submitted 04/13/2004, claims 37-39 have been withdrawn from further consideration. Applicant is requested to cancel non-elected claims 37-39.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 01/26/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

Art Unit: 2666

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims **6-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloonan et al. (US 2001/0044845) in view of Rosinski et al. (U.S. 5,381,467).

Regarding claim **6**, Cloonan et al. teaches a method for providing user-changeable service level changes (requested level of service) in paragraph 1. Cloonan et al. also teaches how increased or decreased service charges (settling of costs) are directed to the customer based on the requested service level change in paragraph 8. Cloonan et al. also teaches the storing of customer service level records (subscription level of service) in database 122 of Figure 1 as described in paragraph 17, lines 22-23. Cloonan et al. also teaches that a subscriber can change his or her service level via customer-originated requests (user message) to a service level/billing processor 130 in paragraph 20, lines 4-5. Cloonan et al. also teaches the upgrading or downgrading of service class (allocation of resources) of a subscriber in paragraph 8, lines 3-7. Cloonan et al. also teaches upstream and downstream communications (transmission and reception) in paragraph 16, lines 1-7.

While Cloonan et al. teaches cost allocation to a subscriber as described above, Cloonan et al. does not explicitly teach allocating costs to a station in communication with the subscriber, which uses the allocated resources. However, Rosinski et al.

Art Unit: 2666

teaches a telephone call billing method where both originating and terminating subscribers share the cost of a call in column 2, lines 3-24. Although this billing method is described in the telephony domain, it is stated in column 15, lines 63-67 that the billing method can be directly applied to facsimile, data, and video calls. At the time of the invention, it would have been obvious to someone of ordinary skill in the art given these references to combine the teachings of Cloonan et al. with the call billing method of the Rosinski et al. reference. A motivation for doing so would be to allow the cost of communicating to be apportioned among those that are communicating as stated in column 16, lines 5-14 of the Rosinski et al. reference.

Regarding claim 7, Cloonan et al. further teaches customer requested increases or decreases in bandwidth (subscription and requested service) in paragraph 8, lines 3-4.

Regarding claim 8, Cloonan et al. further teaches user-changeable (subscriber) service level changes in paragraph 1, lines 3-4.

5. Claims **9-13 and 31-33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloonan et al. (US 2001/0044845) in view of Swale et al. (U.S. 5,822,411).

Regarding claims **9-11 and 13**, Cloonan et al. teaches a method where requests for service level changes are sent from the subscriber on an as-needed basis as described on page 1, paragraph 8. Cloonan et al. fails to teach the subscriber transmitting a request of a desired allocation of costs for providing the requested level of service, which is different than the subscribed allocation of costs. However, Swale et al.

Art Unit: 2666

teaches a communications charging method where a called party can request the network operator (network element) to vary the charging (desired allocation of cost) applied to a received call as described in column 3, lines 1-13. At the time of the invention, it would have been obvious to someone of ordinary skill in the art given these references to combine the service level teachings of Cloonan et al. with the call charge variation of the Swale et al. reference. A motivation for doing so would be to temporarily increase/decrease the cost of the call for a specific period of time as stated in column 3, lines 9-10.

Regarding claim 12, Cloonan further teaches in paragraph 8 about the validation of the requestor's service level class (notification of allowance of allocation of resources) and the upgrading or downgrading of service class for data transmission.

Regarding claims 31-33, Cloonan et al. teaches a method where requests for service level changes are sent from the subscriber (user) on an as-needed basis as described on page 1, paragraph 8. Cloonan further teaches in paragraph 8 about the validation of the requestor's service level class (response that modified settlement procedure is allowable) and the upgrading or downgrading of service class for data transmission. Cloonan et al. fails to teach the receiving of a modified settlement procedure that differs from a settlement procedure subscribed to. However, Swale et al. teaches a communications charging method where a called party (user) can request the network operator (network element) to vary the charging (modified settlement procedure) applied to a received call as described in column 3, lines 1-13. At the time of the invention, it would have been obvious to someone of ordinary skill in the art given

Art Unit: 2666

these references to combine the service level teachings of Cloonan et al. with the call charge variation of the Swale et al. reference. A motivation for doing so would be to temporarily increase/decrease the cost of the call for a specific period of time as stated in column 3, lines 9-10.

Allowable Subject Matter

6. Claims **17-30** are allowed.

7. The following is an examiner's statement of reasons for allowance:

Regarding claim **17**, the prior art of record teaches "a media gateway in a packet network, said media gateway providing communication between a first station and said packet network and a second media gateway providing communication between a second station and said packet network". The prior art of record also teaches to "allocate resources for said first station, said resources forming a first connection providing communication from said media gateway over said packet network to said second media gateway, said first connection adapted to provide a first service level". The prior art of record also teaches to "transmit a request for communication with said second station, said request providing network connection information about said first connection and said first service level".

The prior art of record fails to teach to "receive a message providing network connection information about a second connection and a second service level, said second service level associated with said second connection, said second connection providing communication between said second media gateway and said packet network". The prior art of record also fails to teach to "modify said first connection to

Art Unit: 2666

provide said second service level" and then to "transmit data received from said first station destined for said second station to a network address of said second media gateway using said first connection; and transmit data received from said second station destined for said first station to a network address of said first media gateway using said second connection".

Regarding claims **18-22**, these claims are further limiting to claim **17** and are thus also allowable over the prior art of record.

Regarding claim **23**, the prior art of record teaches "a media gateway controller in a data network, said media gateway controller for establishing communication between a first media gateway and a second media gateway over a packet network, said first media gateway servicing a first station and said second media gateway servicing a second station". The prior art of record also teaches to "transmit a communication request to said second media gateway, said communication request requesting said second media gateway allocate resources for communication between said second media gateway and said first media gateway over said packet network for said connection". The prior art of record also teaches to "receive from said second media gateway a network address associated with said connection terminating at said second media gateway". The prior art of record also teaches "said connection comprising an upstream connection for transmission from said first media gateway to said second media gateway and a downstream connection for transmissions from said second media gateway to said first media gateway".

The prior art of record fails to teach to “receive a request from said first media gateway, said request requesting a level of service for a connection for communication between said first media gateway and said second media gateway, an address for a second station and a first network address associated with said connection terminating at said first media gateway, said first station subscribing to a subscription level of service different from said level of service requested”. The prior art of record also fails to teach to “transmit to said first media gateway a response to said request, said response indicating a level of service to be provided to said first station in view of said service level requested”.

Regarding claims **24-29**, these claims are further limiting to claim **23** and are thus also allowable over the prior art of record.

Regarding claim **30**, the prior art of record teaches “a computer readable media containing software for a media gateway in a packet network, said media gateway communicating with a first station and said packet network and a second media gateway communicating with a second station and said packet network”. The prior art of record also teaches to “allocate resources to said first station, said resources forming a first communication connection providing communication between said media gateway and said packet network, said first communication connection adapted to provide a first service level”. The prior art of record also teaches to “transmit a request for communication with said second station, said request providing network connection information about said first communication connection and said first service level”.

The prior art of record fails to teach to "receive a message providing network connection information about a second communication connection and a second service level, said second service level associated with said second communication connection, said second communication connection providing communication between said second media gateway and said packet network". The prior art of record also fails to teach to "receive confirmation of modification of said first connection, said modification adapting said first connection to provide said second service level" and then to "transmit data received from said first station and destined for said second station using said first communication connection; and transmit data received from said second station and destined for said first station using said second communication connection".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Amin et al. (U.S. 6,373,931), Fjortoft et al. (U.S. 6,542,521), Ghirnikar et al. (U.S. 6,216,001), Estberg et al. (U.S. 6,148,337), Koistinen et al. (U.S. 6,154,778), Yin et al. (U.S. 6,442,138), Selinger (U.S. 6,345,038), Bartholomew et al. (U.S. 6,292,479), and Mangipudi et al. (U.S. 6,728,748) are all references that contain material pertinent to this application.

Art Unit: 2666

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Moore, Jr. whose telephone number is (703) 305-8703. The examiner can normally be reached on Monday-Friday (8:30am - 5:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached at (703) 308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael J. Moore, Jr.
Examiner
Art Unit 2666

mjm MM

Seema S. Rao
SEEMA S. RAO 6/24/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800